



General Services Administration
Office of General Counsel
Washington, DC 20405

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

April 17, 1995

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Subject: Price Cap Performance Review for Local Exchange
Carriers; Treatment of Video Dialtone Services Under
Price Cap Regulation, CC Docket No. 94-1

Dear Mr. Caton:

Enclosed please find the original and nine copies of the General Services Administration's Comments for filing in the above-referenced proceeding. Copies of this filing have been served on all interested parties.

Sincerely,

Tenley A. Carp
Assistant General Counsel
Personal Property Division

Enclosures

cc: International Transcription Service
Tariff Division



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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the Matter of)
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Price Cap Performance Review)
for Local Exchange Carriers;)
Treatment of Video Dialtone Services)
Under Price Cap Regulation)
)

CC Docket No. 94-1

COMMENTS OF THE GENERAL SERVICES ADMINISTRATION

EMILY C. HEWITT
General Counsel

VINCENT L. CRIVELLA
Associate General Counsel
Personal Property Division

MICHAEL J. ETTNER
Senior Assistant General Counsel
Personal Property Division

TENLEY A. CARP
Assistant General Counsel
Personal Property Division

Economic Consultant:

Snavely, King & Associates
1220 L Street, N.W.
Washington, D.C. 20005

GENERAL SERVICES ADMINISTRATION
18th & F Streets, N.W., Room 4002
Washington, D.C. 20405

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Under Price Cap Regulation)

CC Docket No. 94-1

COMMENTS OF THE GENERAL SERVICES ADMINISTRATION

The General Services Administration ("GSA"), on behalf of the Federal Executive Agencies, hereby submits its Comments in response to the Commission's Further Notice of Proposed Rulemaking ("FNPRM"), FCC 95-49, released February 15, 1995. This Notice requests comments on the treatment of video dialtone services under price cap regulation.

I. Introduction

In 1992, the Commission modified its rules to permit Local Exchange Carriers ("LECs") to offer video dialtone services.¹

¹See Telephone Company-Cable Television Cross Ownership Rules, Sections 63.54-63.58, Further Notice of Proposed Rulemaking, First Report and Order and Second Further Notice of Inquiry, 7 FCC Rcd 300 (1991), recon., 7 FCC Rcd 5069 (1992), *aff'd sub nom.*, National Cable Television Association v. FCC, 33 F.3d 66 (D.C. Cir. 1994); Telephone Company-Cable Television Cross Ownership Rules, Sections

Under the video dialtone framework, LECs may offer, on a nondiscriminatory basis, a basic common carrier platform capable of accommodating multiple video programmers.²

In the Video Dialtone Reconsideration Order, the Commission concluded that the initial video dialtone service offerings by LECs subject to price cap regulation should be subject to existing price cap rules.³ However, the Commission also tentatively concluded that a separate price cap basket for video dialtone service would help to avoid improper cross-subsidization by preventing local telephone companies from offsetting a price reduction for video dialtone service with an increase in rates for other regulated interstate services.⁴

In these Comments, GSA supports the Commission's tentative conclusion and responds to the Commission's request for comments on various implementation issues.

63.54-63.58, Second Report and Order, Recommendation to Congress, and Second Further Notice of Proposed Rulemaking, 7 FCC Rcd 5781 (1992) ("Video Dialtone Order"), *appeal pending sub nom.*, Mankato Citizens Telephone Company, No. 92-1404 (D.C.Cir. filed Sept. 9, 1992) and *modified on recon.*, FCC 94-269, 10 FCC Rcd 244 (rel. Nov. 7, 1994) ("Video Dialtone Reconsideration Order").

²Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54-63.58, CC Docket No. 87-266, Fourth Further Notice of Proposed Rulemaking, FCC 95-20, released January 20, 1995 ("Fourth Notice"), para. 5.

³Video Dialtone Reconsideration Order, para. 161.

⁴*Id.*, para. 167, 222-23.

II. The Commission Should Establish
A Separate Price Cap Basket
For Video Dialtone Services.

The Commission has consistently avoided placing two very different services, with different sets of customers, in the same basket, due to the cross subsidy issues that might arise.⁵ For example, the Commission found it necessary to establish a separate price cap basket for interexchange services because such offerings are "fundamentally different" from special access services.⁶

Similarly, as Bell Atlantic stated last month, video dialtone is "fundamentally different" from traditional telephone service.⁷ The Commission has recognized this difference, and noted its effect on LEC incentives as follows:

Because video dialtone is an essential component of a multichannel video service that will compete directly with cable television operators and other multichannel video programming providers, LECs may have an incentive to understate the direct costs of the service in order to set unreasonably low prices and engage in cross-subsidization.⁸

By establishing a separate price cap basket for video dialtone, the Commission will prevent LECs from offsetting lower than reasonable video dialtone prices with higher than reasonable telephone prices. This will not only ensure that telephone

⁵Policy and Rules Concerning Rates for Dominant Carriers, Second Report and Order, 5 FCC Rcd 6786 (1990) ("LEC Price Cap Order"), para. 213.

⁶FNPRM, para. 10.

⁷Letter from Raymond W. Smith, Chairman of the Board and Chief Executive Officer, Bell Atlantic, to the Chairman, March 7, 1995, p. 2.

⁸Video Dialtone Reconsideration Order, para. 216.

ratepayers do not have to bear the cost of video dialtone, it will also protect cable operators from potential anticompetitive actions by LECs.

The establishment of a separate price cap basket for video dialtone will thus promote economic efficiency and the prospects for full and open competition in both the telephone and cable television industries.

III. The Commission Should Use The Same Price
Cap Formula For Video Dialtone As For
Access Services.

The Commission invites comments on the appropriate price cap formula for the video dialtone basket.⁹ In particular, the Commission seeks comment on the selection of a reasonable productivity factor. As the Commission notes, the selection of a productivity factor is crucial:

If the productivity factor is too low, prices will be too high, depressing demand from consumers and leading to inefficiently low levels of traffic. If the productivity factor is set too high, investment may be discouraged because carriers may conclude that investment of capital in other ventures and services is more attractive than providing video dialtone service.¹⁰

GSA demonstrated earlier in this proceeding that the initial productivity factor of 3.3 percent was far too low, and had to be raised.¹¹ On March 30, 1995, the Commission adopted higher

⁹FNPRM, para. 16.

¹⁰Id., para. 14.

¹¹See Comments of GSA, May 9, 1994; Reply Comments of GSA, June 29, 1994; and Comments of GSA on the USTA Ex Parte Submission,

productivity factors for telephony, and GSA believes that these new factors should also be applied to video dialtone.¹² Although services and customers differ between video dialtone and telephony, basic technology does not. There is no reason to use a different productivity factor or formula for video dialtone than that used for telephony.

IV. The Initial Price Caps For Video Dialtone
Should Be Based On the Initial Rates
For Video Dialtone.

The Commission proposes to establish the initial rates for video dialtone by applying its existing rules for new services.¹³ A year later, these rates would serve as the basis for the initial price caps for video dialtone.

The Commission has already noted that initial video dialtone rates would be carefully scrutinized:

The large amounts of investment involved, and the serious concerns about cross-subsidization expressed in the record of the instant proceeding, suggest that video dialtone rates will be subject to intense scrutiny.¹⁴

It seems reasonable, therefore, to use these rates as the basis for the initial price caps for video dialtone.

January 31, 1995.

¹²Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, Report and Order, adopted March 30, 1995.

¹³FNPRM, para. 18.

¹⁴Video Dialtone Reconsideration Order, para. 215.

V. Separate Service Category Bands Should
Be Established Within The Video
Dialtone Basket.

The Commission requests comments on whether video dialtone service offerings may require establishment of separate service categories.¹⁵ As the Commission notes, service category pricing bands "are intended to protect ratepayers from substantial and precipitous changes in service rates, and to prevent the LECs from engaging in predatory pricing and other anti-competitive practices."¹⁶

Some LECs may choose to bill end users, as well as customer programmers, for the costs of video dialtone. GSA recommends that separate service categories be established for end users and customer programmers to ensure a degree of rate stability for ratepayers.

VI. Video Dialtone Earnings Should Be Subject
To A Separate Sharing Obligation.

The Commission also requests comments on whether the costs and revenues associated with video dialtone should be included in the calculation of a LEC's interstate rate of return for purposes of the sharing and low end adjustment mechanisms.¹⁷

GSA believes that video dialtone costs and revenues should not be included in sharing calculations related to telephony. Indeed,

¹⁵FNPRM, para. 20.

¹⁶Id., para. 21.

¹⁷FNPRM, para. 25.

the inclusion of video dialtone data would allow the very cross-subsidization which the separate price cap basket attempts to prevent.

At least for the first few years, the huge investment required to implement video dialtone will result in substantial losses for video dialtone services. Bell Atlantic, for example, expects losses measured in the tens of millions of dollars per year in its Washington, D.C. service area alone.¹⁸ If these losses are allowed to offset excess telephony earnings, telephone ratepayers will effectively subsidize Bell Atlantic's cable television venture.

The Commission should exclude all video dialtone costs and revenues from the calculation of a LEC's interstate sharing and low end adjustment mechanisms. Consistent with this separation, the Commission should revise LEC ARMIS report requirements to establish a separate column for the reporting of video dialtone costs and revenues.

¹⁸See Section 214 Application of The Chesapeake and Potomac Telephone Companies of Maryland and Virginia, W-P-C 6912, filed June 16, 1994, Exhibit 4A.

VII. Conclusion

As the agency vested with the responsibility for acquiring telecommunications services on a competitive basis for use of the Federal Executive Agencies, GSA urges the Commission to establish a separate price cap basket for video dialtone services; use the same price cap formula as for telephony; base initial price caps on initial rates; establish separate service category bands; and establish separate sharing obligations and reporting requirements for video dialtone.

Respectfully submitted,

EMILY C. HEWITT
General Counsel

VINCENT L. CRIVELLA
Associate General Counsel
Personal Property Division

MICHAEL J. ETTNER
Senior Assistant General Counsel
Personal Property Division

TENLEY A. CARP
Assistant General Counsel
Personal Property Division

GENERAL SERVICES ADMINISTRATION
18th & F Streets, N.W., Room 4002
Washington, D.C. 20405

April 17, 1995

CERTIFICATE OF SERVICE

I, _____, do hereby certify that copies of the foregoing "Comments of the General Services Administration" were served this 17th day of April, 1995, by hand delivery or postage paid to the following parties:

Kathleen M.H. Wallman
Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

Gerri Matise
Acting Chief, Tariff Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, D.C. 20554

Dan Grosh
Tariff Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, D.C. 20554

Anthony Bush
Tariff Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, D.C. 20554

Kenneth P. Moran
Chief, Accounting and Audits Division
Common Carrier Bureau
Federal Communications Commission
2000 L Street, N.W., Room 812
Washington, D.C. 20554

Kent R. Nilsson
Chief, Cost Analysis Branch
Accounting and Audits Division
Common Carrier Bureau
Federal Communications Commission
2000 L Street, N.W., Room 812
Washington, D.C. 20554

SERVICE LIST
(CONT.)

International Transcription
Service, Inc.
Room 246
1919 M Street, N.W.
Washington, D.C. 20037

Paul Schwedler, Esquire
Asst. Regulatory Counsel,
Telecommunications
Defense Info. Agency, Code AR
701 South Courthouse Road
Arlington, VA 22204-2199

Edith Herman
Senior Editor
Communications Daily
2115 Ward Court, N.W.
Washington, D.C. 20037

Telecommunications Reports
11th Floor, West Tower
1333 H Street, N.W.
Washington, D.C. 20005

Richard B. Lee
Senior Consultant
Snavelly, King & Associates,
Inc.
1220 L Street, N.W., Suite 410
Washington, D.C. 20005
